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The pros and cons of creating  
a congressional joint committee  
to oversee intelligence activities.

WHY NOT A WATCHDOG COMMITTEE?

John S. Warner

For the last ten years or so there have been recurrent calls in Congress and the press for the establishment of a congressional Joint Committee [on Foreign Intelligence] to [keep] tab on the Executive Branch's intelligence activities, and particularly the CIA, [in somewhat the way the Joint Committee on Atomic Energy oversees the affairs of the AEC. Through successive administrations [the Executive Branch], along with some members of Congress, (has) opposed this proposal, [and it has never really got off the ground.] Yet many thoughtful intelligence officers are inclined to favor it, whether as an independent check which they really think desirable or merely as a buffer against public charges of free-wheeling on the part of CIA.

The main points of the Executive Branch's position, as officially adopted by the National Security Council in 1956, are that such a committee would create security problems and encroach on the Executive's responsibility for foreign relations, that it would have jurisdictional troubles because intelligence involves agencies other than CIA which are the

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responsibility of other congressional committees, and that the four CIA subcommittees -- of the Senate and House Appropriations and Armed Forces Committees -- which are now kept informed as a basis for appropriations and authorizations conduct an adequate review of plans and activities and could do more if desired. The question is not so simple as that sounds, however, and the pros and cons are worth going into with some care.

Peculiarities of the Problem

All agencies have the problem of establishing proper relations with the Congress in order to keep it informed and obtain the funds they require. Four aspects of this problem, however, are peculiar to an intelligence agency like CIA and distinguish it from that of AEC or any other agency. They are the following:

Security. CIA must put a premium on security not only for the protection of its own activities, sources, and methods but also to retain the confidence of friendly foreign governments from which it gets invaluable sensitive material. It is the only agency that needs to maintain secrecy in such basic matters as personnel, budget, organization, and expenditures. This secrecy tends to breed suspicion and distrust in the congressmen who are not informed. The security problem is thus different from that of other agencies both in nature and in degree.

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The Intelligence Product. Finished intelligence, the end product of the community, is meant for the policy makers in the Executive Branch. It can be argued soundly that it is the exclusive property of the President in view of his constitutional responsibility for the conduct of foreign affairs, and there is serious question whether the Congress has any legitimate interest in it beyond seeing that value is returned for funds appropriated. Since intelligence is only one factor in policy decisions, giving it to Congress could lead to serious political difficulties between the Executive and Legislative Branches, with intelligence agencies caught in the middle.

Committee Jurisdiction. Most agencies can deal with the Congress from the standpoint of an exclusive range of functional responsibility. But CIA is the focal point of an intelligence community comprising components of other departments and agencies that have their own direct responsibility to the Congress and are assigned to other committees. This formidable jurisdictional problem, while it is one for the Congress to resolve, is pertinent to our consideration of relations with the Congress.

Covert Operations. In addition to its intelligence mission CIA is charged with the conduct of covert operations. These operations are governed by policy directives from elements of the Executive Branch and are subject to review in

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that Branch. A congressional review would cover policy decisions of the Executive for which CIA does not have the responsibility.

Vis-a-vis Present System

Let us look at these problem aspects as they are handled under the present CIA subcommittees and appraise the prospects under a joint committee.

Security. With the existing system the security of the subcommittees has been excellent. It cannot be assumed a priori, however, that a joint committee would be less secure. Under some of the proposals, in fact, notably that of Senator Mansfield, the membership of the joint committee would be precisely that of the CIA subcommittees. The mere establishment of the joint committee might have some adverse effect on relations with foreign intelligence services, but this would probably be of short duration if it could be explained to them that there had been no real change with respect to safeguarding their secrets.

The Intelligence Product. In the matter of having to produce finished intelligence on congressional demand, there would seem to be little fundamental difference between the present subcommittee system and a joint committee. Though the subcommittees have not raised the issue, they could at any time. A

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Joint committee might be more likely to do so, but the issue, the President's responsibility for foreign affairs, is the same under either system. A joint committee, in fact, might confine the problem by tending to preclude requests from other committees, say Foreign Relations, such as could be made under the present system.

Jurisdiction. There are two sides to the jurisdiction problem. On the one hand, if the joint committee is to have jurisdiction over intelligence matters, the extent of the jurisdiction it might assert over the intelligence activities of agencies that are responsible to other committees is a matter of conjecture and concern. Under the present system, on the other hand, there is the question of how many committees can properly take jurisdiction over CIA at the same time. In addition to the four principal subcommittees, for example, a subcommittee on State Department Organization and Foreign Operations of the House Foreign Affairs Committee has listed one of its responsibilities as "liaison with Central Intelligence Agency"; and the Post Office and Civil Service Committees might well claim legislation affecting CIA personnel. A joint committee could simplify the situation by taking exclusive jurisdiction over CIA for everything except appropriations. It is true, however, that there has been no

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serious jurisdictional difficulty under the present system and that the establishment of a joint committee would tend to raise jurisdictional questions.

Covert Operations. Again with respect to this problem, on the fundamental issue -- congressional intrusion into the Executive's responsibility for foreign affairs -- there seems to be little difference between the present subcommittees and the joint committee. The existence of a joint committee, however, because the control of covert operations has been one of the main motives behind the demand for one, would tend to bring the issue into focus. The subcommittees have not seriously considered the policy directives which govern covert operations; a joint committee could be expected to study such matters more carefully and might well be critical of policies or instructions or perhaps especially of limitations set by Defense or State. The problem of such policy guidance is delicate enough without having a third party, and that a congressional group, enter the debate. From this point of view, therefore, the subcommittee system seems preferable. Yet there is really nothing to prevent the problem from arising similarly in the subcommittees.

Membership and Staff

The membership question is a serious one. Some of the proposals have left it open how members of the joint committee should be selected, except for the usual relationship between

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majority and minority parties; in all likelihood seniority rules would apply. Such an inflexible arrangement would increase the hazards both to security and to the Executive's freedom of action. It would be of importance to have either a provision like the Mansfield proposal for the membership to come from the existing subcommittees or some arrangements for the informal exercise of discretion such as now obtains in selecting subcommittee members.

Such problems as are raised by a joint committee are magnified by the fact that it would have its own staff. The staffs presently supporting the subcommittees have as much work as they can handle on legislation for other defense activities and tend to leave CIA alone. A staff for the proposed joint committee, however, even if it consisted of one man, would use up but a small portion of its time on the few legislative problems CIA presents -- as contrasted, for example, with those of AEC -- and would doubtless devote the rest to informing itself about intelligence activities and inquiring into substantive matters. To do its job properly it would have to have access to the most sensitive of clandestine activities on an across-the-board basis, and access which very few in the compartmented Agency itself are given. The security problem would be further aggravated by the normal

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turnover in a staff, leaving a train of people with broad knowledge of secret activities.

This staff work could be expected in turn to promote the interest of committee members in such matters, and there would be a far more active give and take between them and CIA officers than at present. Aside from being time-consuming, the detriments of this development would probably tend to outweigh the benefits: the increased security exposure and the tendency of the joint committee to interpose in matters of foreign policy would likely be of greater consequence than any protection it might provide against congressional or public scapegoating of the Agency. Nevertheless the problems would not be insoluble if such a committee were created. The selection of staff personnel could probably be worked out by mutual agreement between the committee chairman and the DCI.

Other Considerations

In addition to our own views in the Agency and the intelligence community, we have to consider those of the Executive Branch as a whole and of the senior members of Congress who sit on the present subcommittees. We have noted the position taken by the National Security Council in 1956. Further, there are some in the White House and Bureau of the Budget who feel

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strongly opposed to the joint committee concept as inevitably leading to invasion of the prerogatives of the Executive Branch by the Congress. The congressional leaders on the CIA subcommittees are also characteristically opposed. Senator Saltonstall, for example, once said that "a joint committee would wreck CIA," which is a good deal more than we are saying here.

Some of the advantages claimed for a joint committee could be obtained under the present system of subcommittees. The subcommittees could make a more thorough substantive review of Agency activities, say annually, than they have in the past. Such a review, followed by a report to the Congress that it had been conducted, would go a long way toward meeting the objectives of a joint committee and alleviating the pressures for one. Subcommittee members are also becoming more active individually in dispelling suspicion and distrust of CIA within the Congress. The lack of knowledge about the Agency and its congressional relations was illustrated strikingly a few years ago when certain senior congressmen on the Armed Services Committee were found to be unaware that there was a CIA subcommittee in existence.

In Sum

In most of the problem areas we have discussed, the same fundamental issues arise whether the present subcommittee

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system is retained or a joint committee is created -- the difference being that the latter would be more likely to bring the issues to the fore and emphasize the problems. Although some advantages would no doubt accrue from having a joint committee, some of these can be secured without one, and we conclude that on balance a joint committee would be undesirable. We do not conclude that the establishment of a joint committee would be disastrous. Certainly it would create some new problems, particularly because of having a permanent staff, but in all probability these could be resolved.

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TRANSMITTAL SLIP		DATE 20 Aug 64
TO:	John Warner	
ROOM NO.	BUILDING	
7201		
REMARKS:		
<p>I think it would be useful  + instructive to have in the  studios some such article  as this, based chiefly on your  27 Oct 58 memo. You may want  to add something or make changes,  perhaps update it on p. 9.  Would present to the Board  weekend of 11 Sept.</p>		
FROM		
ROOM NO.	TENSION	

FORM NO. 241  
1 FEB 55REPLACES FORM 36-8  
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